

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON HUMAN SERVICES

Call to Order: By **CHAIRMAN BILL THOMAS**, on February 5, 2001 at 3 P.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Bill Thomas, Chairman (R)
Rep. Roy Brown, Vice Chairman (R)
Rep. Trudi Schmidt, Vice Chairman (D)
Rep. Tom Dell (D)
Rep. John Esp (R)
Rep. Tom Facey (D)
Rep. Daniel Fuchs (R)
Rep. Dennis Himmelberger (R)
Rep. Larry Jent (D)
Rep. Michelle Lee (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Holly Raser (D)
Rep. Diane Rice (R)
Rep. Rick Ripley (R)
Rep. Clarice Schrumpf (R)
Rep. Jim Shockley (R)
Rep. James Whitaker (R)

Members Excused: None.

Members Absent: None.

Staff Present: David Niss, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 456, HB 411; 2/2/01
Executive Action: HB 456, HB 222, HB 411

HEARING ON HB 456

Sponsor: REP. GAIL GUTSCHE, HD 66, Missoula

Proponents: Barb Andreozzi, Chair, Adv. Council for the Mt.
Breast & Cervical Health Program
Dick Paulson, former director, Mt. Breast & Cervical
Cancer Program
Dr. Barbara Lloyd, Helena surgeon
Lois Fitzpatrick, Helena
Jan Paulsen, Helena
Linda Stoll, Mt. Local Health Officers' Group
Martha Finley, Helena
Maggie Sheehan, Billings
Patsy Fribbley, Springdale
Lynn Russell, Great Falls
Sami Butler, Mt. Nurses' Assn.
Carol Pearson, Florence
Kristin Page Nei, American Cancer Society

Opponents: None

Opening Statement by Sponsor:

REP. GAIL GUTSCHE, HD 66, Missoula, said that the federal Breast and Cervical Cancer Treatment Act was signed into law in October of 2000. The act allows states to choose to receive medicaid matching funds to provide medical care and treatment to low-income women under the age of 65, who have been diagnosed with breast or cervical cancer and who were screened under the Center for Disease Control(CDC)'s national breast and cervical cancer early detection program. Key provisions include that states wishing to participate must include a new eligibility group in their medicaid plan in order to provide funding to trigger the federal funds. The benefits are limited to medical assistance provided during the period in which a woman requires treatment for breast or cervical cancer or both. The federal act applies to medical assistance and services beginning October 1, 2000, and it is an 80/20 match. HB 456 would provide eligibility for medicaid for individuals who have participated in the Montana breast and cervical health program and who require treatment for breast and cervical cancer or both. The bill would provide full medical assistance under the Montana medicaid program to individuals during the period in which they require treatment of cancer or a pre-cancerous condition. The women have to meet the following criteria: 1) She has to have been screened for breast and/or cervical cancer under the Mt. Breast and Cervical Health Program, which is funded by the CDC; 2) She needs treatment for breast and/or cervical cancer or a pre-cancerous

condition; 3) She is not otherwise covered under creditable coverage as provided by federal law or regulation; 4) She is not eligible for medical assistance under any mandatory categorically-needy eligibility group; 5) She has not attained 65 years of age. The proposed effective date for this legislation is July 1, 2001. Rep. Gutsche said she did not sign the fiscal note but does agree with most of the numbers. Most of the funding is from the federal government. The Mt. Breast and Cervical Health Program provides cancer screening for eligible women, primarily ages 50 to 64, 200 percent of poverty, level, who are uninsured or under insured. **{Tape : 1; Side : A; Approx. Time Counter : 0.7 - 5.5}**

Proponents' Testimony:

Barb Andreozzi, Chair, Adv. Council for the Mt. Breast & Cervical Health Program, said that statistics are just aggregates of families who are suffering in Montana. There is a much higher rate of death for the poor due to lack of treatment and access to treatment. Since October of 1997, they have screened over 2,500 women and are operating at 14 sites so there is access across the state for women who qualify. They have found about 45 breast cancers and 5 cervical cancers and have projected that they will find about 25 cases of breast cancer and 5 cases of cervical cancer each year. The frustration has been in identifying resources for women for treatment, and they have not been 100 percent successful. In some communities, women who have been diagnosed with breast or cervical cancer have not had access to treatment because they are underinsured or uninsurable. She said the council wants to make sure that low-income women have access. Hospitals are struggling and feel that they can only take on so many charitable cases. This results in a delay in services, and early treatment is critical for the success of these women and is the difference between life and death. **EXHIBIT(huh29a01){Tape : 1; Side : A; Approx. Time Counter : 5.7 - 6.1}**

Dick Paulson, representing himself, said he is the former director of the Mt. Breast and Cervical Cancer Program and past president of the Mt. Public Health Assn. Disease control methods include education, prevention, detection, clinical services and treatment. With cancer, you must identify the disease through screening mechanisms and then provide treatment. It is often difficult to get women to come into a program for screening tests because they may not want to know if they have cancer, and they are concerned that they won't have resources for treatment. Around 1980, the legislature funded the cancer registry, which continues to provide data on types of cancers and sites. The next program funded by the legislature was the breast and cervical cancer project in 1994, and

he was hired in 1997 to develop the program and get the screening started. The next step is for the state to start providing treatment. **EXHIBIT(huh29a02) EXHIBIT(huh29a03) EXHIBIT(huh29a04)**
{Tape : 1; Side : A; Approx. Time Counter : 6.1 - 15.4}

Dr. Barbara Lloyd, Helena surgeon, said that breast cancer occurs in 1 out of 8 women and accounts for 15 percent of cancer deaths in women. Regular screening is the single most important health strategy to reduce the mortality of breast cancer. Expected improvement in outcomes is based on the assumption that cancers discovered early in a screening program are treated. For breast cancer, treatment includes surgery, radiation and chemotherapy. The treatment is expensive. At this time, women in the Mt. Breast & Cervical Health Program have funds available to cover screening but not for treatment. This bill would provide needed funds for these patients. **EXHIBIT(huh29a05){Tape : 1; Side : A; Approx. Time Counter : 15.4 - 21}**

Lois Fitzpatrick, Helena, breast cancer survivor, supports the bill. The survival rate of women with breast cancer is increasing due to early detection and treatment. When her breast cancer was diagnosed, she was able to concentrate on treatment and healing, because she had health insurance so didn't have to worry about how to pay for the treatment. Many women don't have health screenings because they are afraid for the results and don't have the option of treatments. If women are given the opportunity to have cancerous or pre-cancerous conditions identified early and treated aggressively, the statistics of women dying will decrease. **EXHIBIT(huh29a11){Tape : 2; Side : B; Approx. Time Counter : 6.8 - 9.5} {Tape : 1; Side : A; Approx. Time Counter : 21 - 23.4}**

Jan Paulsen, Helena, breast cancer survivor, said that she also had health insurance so didn't have the fear of the financial aspects of her cancer treatment. The CDC has been proactive in funding states to establish coalitions to work within communities to provide early diagnostic screening. This shift to a more preventative health care approach, paired with encouragement for women to pay attention to early warning signs, has created changes in the health care field. She works as a volunteer mentor throughout the state and visits with hundred of women who are motivated to get their screening but are scared to death about the results. She believes that government should be a partner with other organizations in addressing funding and services. **{Tape : 1; Side : A; Approx. Time Counter : 23.4 - 26.8}**

Linda Stoll, Mt. Local Health Officers' Group, said she represents the public health officers for seven counties, and they are in

support of the bill. **{Tape : 1; Side : A; Approx. Time Counter : 26.8 - 27.5}**

Martha Finley, representing herself, said she is a project coordinator for the breast and cervical health program and a health educator for the Lewis & Clark City-County Health Dept. In the five-county area, 150 uninsured, low-income women over age 50 are screened each year through this project. If free services were not provided, most of these women would not received screening. If they are diagnosed with cancer, they have to cope with the health-care bills in addition to the expenses of everyday living. There is no safety net. Women balk at screening, because they cannot afford to have cancer. **{Tape : 1; Side : A; Approx. Time Counter : 27.5 - 30}**

Maggie Sheehan, Billings, breast cancer survivor, told her personal story of diagnosis and treatment as a person with no health insurance. She urged the committee to support the bill. **{Tape : 1; Side : B; Approx. Time Counter : 0 - 0.8}**

Patsy Fribley, Springdale, breast cancer survivor, told her personal story of diagnosis and treatment, and the financial problems she has faced as a self-employed, uninsured person. She thinks this is a good bill. **{Tape : 1; Side : B; Approx. Time Counter : 0.8 - 10.1}**

Lynn Russell, Great Falls, breast cancer survivor, told her personal story of diagnosis and treatment as an uninsured, self-employed, single parent, including the negative reactions she had experienced from health care providers when she informed them that she did not have health insurance and the many financial problems she is still experiencing. She begged the committee to please pass the bill. **{Tape : 1; Side : B; Approx. Time Counter : 10.1 - 21.6}**

Sami Butler, Mt. Nurses' Assn., said that it's sad that Montana must mandate coverage for treatment of diagnosed cancer, but it's unethical to screen for this disease and then not offer the treatment that can cure it, alleviate pain and suffering, and lengthen life expectancy. Nurses across Montana support this bill. **{Tape : 1; Side : B; Approx. Time Counter : 21.6 - 28.1}**

Carol Pearson, Florence, said that she has lost friends and family members to cancer, and recently was diagnosed with a lump in her breast. She and others in her situation face the problem of how to pay for needed medical care, where to get it and where to find resources. Women she has known often have had to sell personal belongings, borrow, and beg to pay mounting medical bills. Physicians tended to put them on the bottom of the waiting list because they did not have insurance. Hundreds of women could be

helped by the passage of this important bill. **{Tape : 1; Side : B; Approx. Time Counter : 28.1 - 30}**

Kristin Page Nei, American Cancer Society, provided letters of support to the committee. This bill would help the Cancer Society reach its objective of reducing breast cancer mortality rates by 45 percent by 2015. To achieve this, more women age 40 and over need to be educated about the importance of screening, more need to be screened, and more need to have access to adequate treatment. 7,000 low-income women without private health insurance are eligible for the Montana Breast and Cervical Health Program. There is a disparity in treatment for this targeted population, and these women have the right to be properly treated for cancer. **EXHIBIT (huh29a06) EXHIBIT (huh29a07) EXHIBIT (huh29a08) EXHIBIT (huh29a09) {Tape : 2; Side : A; Approx. Time Counter : 0 - 11}**

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

Rep. Schmidt asked what happens to the bill if it is passed and if there are some federal guidelines that have to be followed to get the money. Ms. Nei said if the bill and appropriation for the state match are approved by the legislature, it goes to HCFA for review and approval. Rep. Schmidt asked if other states have done this. Ms. Nei said the legislation was just passed last October, so this is the first legislative cycle for all states and most of them are trying to pass this. She can find out the status of other states' legislation.

Rep. Dell asked Ms. Pearson about the cost of health insurance, and she said it was prohibitive for her once her COBRA provision had run out. It would have been \$287 per month, which she couldn't afford. Rep. Dell asked Ms. Russell about difficulties in obtaining access to insurance for self-employed persons. She said she had the additional problem of being a single parent who didn't received child support. She used to have health insurance, but as the costs kept going up, she couldn't afford it and had to drop it. Because of a pre-existing condition, nobody wants to insure her now.

Rep. Esp asked Rep. Gutsche about the 200 percent of poverty level that she had mentioned and whether that was stated in the bill. She said that is a criteria of being in the early detection program and is a medicaid requirement, so it isn't in the bill. Rep. Esp asked

if it is in the governor's budget, and Rep. Gutsche said it is not. Rep. Esp asked if it would carry on in the future or would be just for this biennium. Rep. Gutsche said the funding in the fiscal note is just for this biennium. Ms. Nei said that in the bill it states that persons are to have been screened through the Mt. Breast and Cervical Health Program, and one of its eligibility criteria is the 200 percent of poverty. The reason it isn't in the governor's budget is that it was passed by Congress in October and there wasn't enough time for them to present it to the governor and to the department for inclusion in the budget. Rep. Esp asked if there is any flexibility in the program as to the level of poverty, or is the 200 percent set. Sue Miller, Program Manager for the Breast and Cervical Health Program, said that when the program was first implemented in Montana, the federal grant agreement with the CDC allowed states to assign a poverty level that is between 100 percent and 250 percent of poverty. Montana chose to serve women at 200 percent of poverty based on a study, so for now that is set. To change it, Montana would have to appeal to CDC and change our grant requirements.

Rep. Jent asked Ms. Miller for clarification on some aspects of the program, including the program match, and Ms. Miller said that it is an 80/20 match, based on the CHIP match.

Rep. Noennig asked if these expenditures would qualify for funds to be expended from the 40 percent of the tobacco settlement money that is to be dedicated to health care. Rep. Gutsche said they believe that the funds could be used for this, but she personally hadn't investigated it. Rep. Chris Harris said that it could be used for this purpose, and it would be an excellent way to extend the use of those funds. Further discussion was held on whether funds for this purpose would come from the balance of the tobacco funds or from the 40 percent that is already to be appropriated for health care under the constitutional amendment that was passed. Rep. Noennig asked if the bill requires an amendment to specify that tobacco money would be the source of funding. Ms. Nei said she would do the legwork to find out. **{Tape : 2; Side : A; Approx. Time Counter : 11 - 30}**

Rep. Lee asked **Rep. Gutsche** if under the permissive language on page 3, line 27 of the bill, the department might decide not to provide the assistance. She said she believed that the permissive language was used, because the person would have to be accepted into the program by qualifying for the other stated criteria. If she didn't meet those criteria, she would not be accepted. Rep. Lee asked if any part of the medicaid assets taste would be applied. Ms. Miller said that a woman would be eligible if she met the eligibility criteria for the Mt. Breast and Cervical Health Program.

Rep. Facey asked how many clients the program serves. Ms. Miller said this is their fifth year of serving clients, and they have screened 2,600 women. **{Tape : 2; Side : B; Approx. Time Counter : 0 - 19.1}**

Closing by Sponsor:

Rep. Gutsche said that the women who testified today who experienced having breast cancer and being uninsured or under insured said far better than she could what the experience is like and why this bill is so desperately needed. It closes the gap between screening and treatment. We really need funds for treatment. Montana insurance rates are exorbitant. Next year in Montana 600 women will be diagnosed with breast cancer, and about 100 women will die of it. We don't know how many of them will be uninsured or underinsured, but clearly some of them will. Some will choose not to be screened because they can't afford the treatment, or they will choose to wait to be screened because they don't know how they will afford it. That causes an increase in mortality. Early diagnosis and treatment, as well as follow-up, significantly reduce mortality, and that is what we are after. There are costs associated with this bill, but there are two ways to look at it. There are the individual costs that these woman have endured and others will in the future. Treatment of women in this targeted population will help us, because the private sectors ultimately are absorbing these costs. This money is an 80/20 split. In 2002 it would cost Montana \$129,000 and we would get \$517,000 from the feds. She would appreciate the committee giving this bill a do pass. **{Tape : 2; Side : B; Approx. Time Counter : 19.1 - 30.}**

HEARING ON HB 411

Sponsor: REP. CHRISTOPHER HARRIS, HD 30, Bozeman

Proponents: John Connor, Mt. Dept. of Justice
Barbara Harris, Mt. Dept. of Justice

Opponents: None

Opening Statement by Sponsor:

REP. CHRISTOPHER HARRIS, HD 30, Bozeman said that six years ago the legislature established the Medicaid Fraud Control Unit within the Dept. of Justice. The unit's main functions are to investigate and prosecute medicaid fraud by providers and also to investigate patient abuse, neglect and exploitation by providers. Two years ago Congress passed the Senior Citizens' Protection Act, which

authorized state medicaid fraud control units to investigate and prosecute patient abuse, neglect and exploitation, regardless of who is doing it. It doesn't have to be a medicaid link. The only thing this bill does is to conform to that federal statute and make it clear that the medicaid fraud unit can, in the process of its investigations, uncover fraud and abuse of the elderly regardless of the medicaid link. Two amendments are necessary to correct drafting errors in the bill. **EXHIBIT(huh29a10) {Tape : 2; Side : B; Approx. Time Counter : 6.8 - 9.7}**

Proponents' Testimony:

John Connor, Mt. Dept. of Justice, is the bureau chief of the Prosecution Services Bureau. Their job is to provide training and trial assistance to county attorneys in Montana. The bureau has one medicaid fraud prosecutor, a position that is shared by two half-time persons. He said that he was here to testify in support of the bill, because he had learned last fall by attending a seminar in Washington, DC, that Montana was not doing enough to address issues of elder abuse. The issue on a national level is a substantial one, and other states are very active in trying to address ways in which elders are protected. He hopes to be able to address some of that in his operation by giving training to county attorneys so they are aware of the kinds of problems faced by elderly persons. As a practical matter, there is very little that the unit can do. They do prosecute elder abuse cases now, but they are limited because it is only a one person position that covers the entire state. This bill would not allow a substantial change in that operation, because they're doing about as much as they can. It might allow a more discriminating assessment of their opportunities to prosecute, though, and from that perspective alone, he thinks it is worthwhile and encourages the favorable consideration of the committee. **{Tape : 2; Side : B; Approx. Time Counter : 9.7 - 12.9}**

Barbara Harris, Mt. Dept. of Justice, one of the half-time medicaid fraud prosecutors, said that this bill will make Montana law consistent with federal law. Over the years, the feds have found that there is elder abuse, neglect and exploitation going on in ways that can be better addressed if the units who have specific knowledge and expertise in these investigations go in and do the investigations even where there are not medicaid monies that can be tied to the patients. Consistent with federal law, her unit would like to do the investigations without getting local approval first. They wouldn't change their relationship with the locals and they wouldn't end up with a lot more cases, but without having to get local approval first, they can be there. They generally go in with help, in many situations, meaning that the Dept. of Health often has an investigator going into these situations and if they can, they go with them. They approach it from a different viewpoint than

the Dept. of Health, because their investigators are criminal investigators. Since the unit's creation in 1995, it has received 55 referrals. They investigated 42 of those and have prosecuted 14 cases. Most of those have been elder abuse cases. The unit advertises through brochures that are distributed, and anybody can call them for assistance. They have learned that sometimes the abuse does not always occur at the hands of providers or providers' employees, but by a family member or "friend." If the law is changed, they could investigate and prosecute these cases. Ms. Harris urged the committee's support for the bill. **{Tape : 2; Side : B; Approx. Time Counter : 12.9 - 19.1}**

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

Rep. Facey asked if it was correct that now to be involved in an investigation, it must be some type of medicare. Mr. Connor said the program is the medicaid program. There is a change in the federal law that allows some greater focus than simply provider-related abuse. The purpose of this bill is to make the state law consistent with the federal law. Rep. Facey asked if his understanding is correct that right now medicaid has to be involved first before they can initiate an investigation. Ms. Harris said now, give the federal law, Montana's Medicaid Fraud Control Unit, which is funded with 75 percent federal money, will be involved in investigations that do not simply involve providers and their employees, but they do it according to a procedure that is set out almost independent and in addition to what you see in the statute. They are already doing cases that don't just involve providers by going through the other procedure. To prosecute them, she must be designated a special deputy county attorney by county commission mandate. This law would allow them to go forward without that county involvement. They would still contact and cooperate with the local officials. **{Tape : 2; Side : B; Approx. Time Counter : 19.1 - 21.5}**

Closing by Sponsor:

Rep. Harris said this is a modest bill and a modest change, but it's worth doing. **{Tape : 2; Side : B; Approx. Time Counter : 21.5 - 24.5}**

EXECUTIVE ACTION ON HB 456

Motion: REP. RASER moved that HB 456 DO PASS.

Discussion: Discussion was held on the possible use of tobacco settlement funds for this bill and if it is possible to use them, how that could be incorporated in this bill.

Substitute Motion/Vote: REP. FACEY made a substitute motion that HB 456 BE POSTPONED UNTIL WEDNESDAY, FEBRUARY 7. Substitute motion carried unanimously. *{Tape : 2; Side : B; Approx. Time Counter : 24.5 - 30}*

EXECUTIVE ACTION ON HB 222

Motion/Vote: REP. LEE moved that HB 222 BE REMOVED FROM THE TABLE. Motion failed 7-10 with Thomas, Dell, Facey, Jent, Lee, Newman, and Raser voting aye. *{Tape : 3; Side : A; Approx. Time Counter : 0 - 0.2}*

EXECUTIVE ACTION ON HB 411

Motion: REP. FUCHS moved that HB 411 DO PASS.

Motion/Vote: REP. FUCHS moved that HB 411 BE AMENDED. Motion carried unanimously.

Motion/Vote: REP. NOENNIG moved that HB 411 DO PASS AS AMENDED. Motion carried 16-0. *{Tape : 3; Side : A; Approx. Time Counter : 0.2 - 4.7}*

EXECUTIVE ACTION ON COMMITTEE BILL

Discussion: Chairman Thomas said that since there is no bill to move, the committee would hold a general discussion on the request to have a bill drafted to address the auditing of mental health centers as requested by Mr. Haynes and Mr. Meyer. The vote would be to decide by majority vote whether to have a bill drafted. Rep. Facey said he thought that mistakes were made and this was a he said/she said situation. Rep. Newman said it appeared that this situation had turned out to be a battle of wills between one particular provider and the department.

Motion: REP. NOENNIG moved that THE COMMITTEE NOT HAVE A COMMITTEE BILL DRAFTED.

Discussion: Rep. Noennig said that this is an on-going case, and it is another example of the legislature being asked to intervene between two parties. It was difficult for the committee to get consistent answers from the parties as to the facts of the case, and the farther they got into it, the more complicated it got. It would take a lot of work to delve into the problem and come up with

the right bill to address it, and basically there are only two weeks left before transmittal and the committee has lots of other work to do. It is an existing dispute, and the committee really doesn't have the time to get involved in it. Rep. Shockley said he understood the concerns that have been expressed, but even though there isn't a lot of time, a bill could be drafted, sent to the floor, and improved when it went to the Senate. This is a problem and health care is important.

Motion/Vote: REP. NOENNIG moved that THE COMMITTEE NOT HAVE A COMMITTEE BILL DRAFTED. Motion carried on a voice vote, with Esp, Fuchs, Lee, Rice, and Shockley voting no.

ADJOURNMENT

Adjournment: 6:10 P.M.

REP. BILL THOMAS, Chairman

PATI O'REILLY, Secretary

BT/PO/JB

Jan Brown transcribed these minutes.

EXHIBIT (huh29aad)